



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA- 2011-0300]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of applications for exemption from the diabetes mellitus standard; request for comments.

SUMMARY: FMCSA announces receipt of applications from 20 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before [Insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2011-0300 using any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- Hand Delivery: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1-202-493-2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. For acknowledgment I receipt of your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the Federal Register on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366-4001, fmcsamedical@dot.gov, FMCSA, Department of Transportation, 1200 New Jersey Avenue, S.E., Room W64-224, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.” The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 20 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b) (3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by the statutes.

QUALIFICATIONS OF APPLICANTS

George T. Beard

Mr. Beard, age 57, has had ITDM since 2004-2005. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His

endocrinologist certifies that Mr. Beard understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Beard meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds an operator's license from Virginia.

Gary L. Breitenbach

Mr. Breitenbach, 48, has had ITDM since 2011. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Breitenbach understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely.

Mr. Breitenbach meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A Commercial Driver's License (CDL) from South Carolina.

Matthew G. Denisov

Mr. Denisov, 39, has had ITDM since age 18. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist

certifies that Mr. Denisov understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Denisov meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class O operator's license from Nebraska.

Marlin L. Enquist

Mr. Enquist, 63, has had ITDM for approximately 2 years. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Enquist understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Enquist meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from South Dakota.

Steven W. Gerling

Mr. Gerling, 58, has had ITDM since 2009. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gerling understands diabetes management and monitoring, has stable

control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gerling meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Jackie D. Greenlee

Mr. Greenlee, 64, has had ITDM since approximately 2003. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Greenlee understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Greenlee meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

Justin W. Jackson

Mr. Jackson, 21, has had ITDM since 1998. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jackson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jackson

meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Oklahoma.

Edward L. Keith

Mr. Keith, 55, has had ITDM since 2011. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Keith understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Keith meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

David T. Kylander

Mr. Kylander, 58, has had ITDM since 2008. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Kylander understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kylander meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His

optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class F operator's license from Missouri.

Eugene J. Nowicki

Mr. Nowicki, 60, has had ITDM for the past 6 years. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Nowicki understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Nowicki meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Michigan.

Jonathan R. Oskin

Mr. Oskin, 30, has had ITDM since 2008. His endocrinologist examined him in 2008 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Oskin understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Oskin meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His optometrist

examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Pennsylvania.

Kevin A. Perdue

Mr. Perdue, 39, has had ITDM since the age of 20. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Perdue understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Perdue meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class C operator's license from Maryland.

Michael E. Pleak

Mr. Pleak, 49, has had ITDM since 2011. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Pleak understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pleak meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His optometrist

examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Chauffeur license from Indiana.

Sarah M. Powell

Ms. Powell, 46, has had ITDM since 1989. Her endocrinologist examined her in 2011 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Powell understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Powell meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2011 and certified that she has stable nonproliferative diabetic retinopathy. She holds a Class D operator's license from New Mexico.

Christopher C. Stephenson

Mr. Stephenson, 44, has had ITDM since 2011. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Stephenson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely.

Mr. Stephenson meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Kansas.

Richard F. VanPelt

Mr. VanPelt, 70, has had ITDM since 2009. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. VanPelt understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. VanPelt meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from New York.

Michael A. Villareal

Mr. Villareal, 59, has had ITDM since 2008. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Villareal understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Villareal meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His

optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Arizona.

Richard L. White

Mr. White, 30, has had ITDM since 1988. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. White understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. White meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class R operator's license from Mississippi.

Jon W. Wood

Mr. Wood, 41, has had ITDM since 2009. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wood understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wood meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His optometrist

examined him in 2011 and certified that he does not have/has stable diabetic retinopathy. He holds a Class D operator's license from Minnesota.

Paul A. Wright

Mr. Wright, 58, has had ITDM since 1989. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wright understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wright meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from New York.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441)¹. The

¹ Section 4129(a) refers to the 2003 notice as a "final rule." However, the 2003 notice did not issue a "final rule" but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 USC. 31136 (e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the Federal Register on November 8, 2005 (70 FR 67777), remain in effect.

Issued on: November 9, 2011

Larry W. Minor
Associate Administrator for Policy

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